

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

INITIAL STATEMENT OF REASONS

APRIL 2009

TITLE 13, CALIFORNIA CODE OF REGULATIONS
DIVISION 2, CHAPTER 6.5, AMEND ARTICLE 1, SECTION 1201; ARTICLE 3,
SECTIONS 1212 AND 1213.

DRIVERS' HOURS OF SERVICE – MOTION PICTURE PRODUCTION (CHP-R-09-14) (OAL File Number)

PURPOSE OF REGULATORY ACTION

California Vehicle Code (VC) Section 2402 authorizes the Commissioner of the California Highway Patrol (CHP) to make and enforce regulations as necessary to carry out the duties of the CHP. Sections 32002, 34501, 34501.2, and 34501.5 VC allow the CHP to adopt reasonable rules and regulations which are designed to promote the safe operation of vehicles described in Section 34500 VC, which are commercial vehicles commonly referred to as “regulated” vehicles (trucks, truck-trailer combinations, buses, etc.). The adopted regulations are contained in Title 13, California Code of Regulations (13 CCR).

This rulemaking action adopts an exemption from the existing driver hours of service (HOS) rules under specific circumstances and allows drivers of property carrying commercial vehicles, operated to or from a theatrical or television motion picture production site, to operate under HOS rules in effect prior to November 11, 2007. This exemption is essentially identical to an exemption effective September 4, 2007, adopted by the Federal Motor Carrier Safety Administration and published in the Federal Register, Vol. 72, No. 128, July 5, 2007; and codified in Title 49, Code of Federal Regulations, Section 395.1(p). By adopting essentially identical regulations, this rulemaking action will enhance the competitiveness of California by eliminating or modifying, to the extent possible, regulations that represent a negative impact on businesses by conflicting with updated federal regulations. Also, this rulemaking will allow the CHP to comply with the requirements of Section 34501.2 VC, by adopting regulations consistent with regulations adopted by the United States Department of Transportation. Lastly, this rulemaking action will add nonsubstantive changes to regulatory language in order to lend further clarity to existing rules.

SECTION BY SECTION OVERVIEW

Title 13 CCR, Division 2, Chapter 6.5 contains the CHP Motor Carrier Safety Regulations. Article 1, Sections 1200 through 1202.2, contain the Definitions and General Provisions and Article 3, Sections 1212 through 1218 contain the General Driving Requirements.

Article 1. Definitions and General Provisions.

Section 1201. Definitions.

Subsection (ee) will be amended to clearly define a work period and show the differences between the minimum off duty period required; for bus drivers (eight consecutive hours) and truck drivers (ten consecutive hours).

Article 3. General Driving Requirements.

Section 1212. Driver Hours of Service.

Subsection (c) is amended to reflect the correct subsection reference regarding the eight day cumulative on duty total of 80 hours, for intrastate drivers, listed in Section 1212.5. Subsection “(b)” is deleted and “(a)(4)” added.

Subsection (k) will be amended to reflect the correct subsection reference limiting the eight day cumulative on duty total to 80 hours, for intrastate drivers, listed in Section 1212.5. Subsection “(b)(2)” will be deleted and “(a)(4)” added.

Subsection (o) is added to exempt intrastate drivers, operating property carrying commercial vehicles to or from a theatrical or television motion picture production site, from the maximum driving and daily on-duty time limits contained in 13 CCR 1212.5, effective November 11, 2007, providing the driver operates within a 100 air-mile radius of the location where the driver reports to and is released from work, i.e. the normal work reporting location.

Drivers meeting those provisions may operate under the maximum driving and daily on-duty time limits in effect prior to November 11, 2007, allowing such drivers to separate their work periods with a minimum of eight consecutive hours off duty and drive up to 12 hours in a work period. With regard to the maximum daily on-duty limit, such drivers will not be able to drive after having been on-duty 15 hours in a work period, however it is not a consecutive hour limit, any off duty or sleeper berth period will not be used in the calculation of the 15 hour on-duty limit.

Section 1213. Driver’s Record of Duty Status.

Subsection (i)(4) will be amended to reflect the correct subsection reference for the definition of “on-duty time” listed in Section 1201. Subsection “q” will be deleted and “s” added.

STUDIES/RELATED FACTS

None.

LOCAL MANDATE

These regulations do not impose any new mandate on local agencies or school districts.

IMPACT ON BUSINESSES

The CHP has not identified any significant adverse impact on businesses since these changes either maintain reasonable exceptions for carriers not directly subject to federal jurisdiction (to minimize the impact on business) or they simply adopt federal regulations, thereby eliminating a conflict between state and federal regulations.

ALTERNATIVES

The CHP has not identified any alternative, including the no action alternative that would be more effective and less burdensome for the purpose for which this action is proposed.

Additionally, the CHP has not identified any alternative which would be as effective and less burdensome to affected persons other than the action being proposed.

Alternatives Identified and Reviewed

1. Amend the existing regulations for consistency with the federal regulations.
2. Make no changes to the existing regulations. This could result in federal preemption of California's Driver Hours of Service Regulations. If preempted, the state could not enforce any of these regulations as they apply to transportation in commerce, thus jeopardizing public safety and environmental protection. Failure to maintain consistency with the Federal Motor Carrier Safety Regulations would also jeopardize federal Motor Carrier Safety Assistance Program grants used for commercial vehicle enforcement and training. The loss of all or a portion of this funding would in itself represent a negative impact on public safety.

ECONOMIC IMPACT

The CHP has determined these regulatory amendments will result in:

- No increased costs for motor carriers directly subject to federal jurisdiction as previously discussed. This rulemaking action will simply allow the state to enforce federal regulations that already apply, but are enforced currently only by federal inspectors who in some cases apply more severe federal penalties.
- No significant compliance cost for persons or businesses directly affected.
- No discernible adverse impact on the quantity and distribution of goods and services to large and small businesses or the public.
- No impact on the level of employment in the state.
- No adverse impact on the competitiveness of this state to retain businesses, as the majority of other states (especially neighboring) have already adopted these or similar requirements.